

**Notice of Allowability**

Application No.

09/648,429

Examiner

Prieto Beatriz

Applicant(s)

LOUVIERE ET AL.

Art Unit

2142

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/09/04.
2. ☒ The allowed claim(s) is/are 16-25,27-35,38,39,43-46,51,73-77 and 80-91.
3. ☒ The drawings filed on 25 August 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Beatriz Prieto*  
Patent Examiner

***Examiner's Amendment***

1. An Examiner's Amendment to the record appears below. Should the changes or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

***Title***

2. Pursuant to M.P.E.P. §606.01, this title has respectfully been changed to read as follows:

**-- AUTOMATED ON-LINE EXPERIMENTATION TO MEASURE USERS BEHAVIOR  
TO TREATMENT FOR A SET OF CONTENT ELEMENTS --**

***Reason for allowance***

3. The following is the Examiner's statement of Reason for Allowance. This statement is not intended to necessarily state all the reasons for allowance or all the details why claims are allowed, nor it specifically or impliedly state that all the reasons for allowance are set forth. The primary, or important reason for allowance of the claims is the inclusion of the limitation(s) in all the claims, which is not found in the prior art references.

In this case, the prior art of record teaches substantially features of the invention, such as an web based (i.e. online automated) experiment in substance, where for e.g., textual and graphical attributes are rearranges on the web page are varied, each combination, i.e. factorial design or arrangement is a treatment; the experiment is for measuring user behavior to various treatments for a set of content element or attributes, teaching substantially, the sampling, specifying, receiving and delivering steps of e.g. claim 1, in substance. The prior art further teach other features of the invention as further discussed below. However, the prior art fails to teach or suggest individually or in combination; where treatments are provided or generated automatically, specifically, the treatment from a set of content elements to test user behavior are automatically defined. In the Dreze reference the content elements, specifically, the content attributes applied to the web page design where defined upon discussion between researches and the web site owner (Dreze p. 10 and as argued on remarks noted on 10/19/04). Although the Dreze reference is found to teach claimed invention in substance, including an online experiment such as a Web-based methodology for evaluating the effectiveness of "promotional content" on the Web. Where further Dreze indicates that the sections of his paper, describe the features of the proposed methodology, the steps for its implementation and illustrate its application to a problem that involves the analysis and the design of the

promotional content characteristic of an actual Web site (see p. 5). Teaching where the methodology is based on an experiment method *conducted over the Web* and designed to test the effectiveness of content on the Web and *implemented on the Web itself*, collects behavioral data from all visitors of a given Web site (p. 7-8). Where the design of content treatments and combinations thereof are developed and installed on the site's server by means of *specifically designed software* (p. 14), this test stimuli (treatments) corresponding to each of the test concepts of the design is described as a step (see p. 13). The step of defining the treatments i.e. alternative web page attributes and corresponding levels (also claimed as "factor and factor elements") or web page attributes and attribute levels, taught by Dreze are not automatically produced or defined. The Dreze reference is silent as to what criteria was used to defined that particular set of content elements utilized in his methodology (e.g. background, image size, sound file display, etc. (see p. 10). Further, with respect to the Herz reference, the claimed terms treatments (i.e. a combination and/or formatting of content) (as argued on remarks mailed 6/29/04, on p. 4), and content elements are not Herz's target objects, including web pages, electronic media or a combination of data types accessible over the network, because according to applicant these objects are not "broken into a set of content elements for presentation to users in various combinations (treatments)", wherein content elements are subcomponents of an item of content (as argued on remarks mailed 6/29/04 on p. 5-6); Specifically, a web page is composes or textual and graphical sections or elements, which may have formatting attributes, e.g. font, size, spacing, etc, the present invention manages an experiment where, for e.g., textual and graphical elements are rearranges on the web page and /or textual and graphical attributes are varied, each combination, i.e. permutation is a treatment (as argued on remarks mailed 01/02/04 on p. 18).

4. Double patent analysis has been performed with respect to *issued patents* having common relationship of inventorship and/or ownership with respect to the above-allowed claims, *none* are found to warrant a double patenting rejection.

***Citation of Pertinent Art:***

5. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Copies of documents cited will be provided as set forth in MPEP§ 707.05(a):

Integrating conjoint and functional measurement with discrete choice theory: and experimental design approach, *Advances in Consumer Research*, Louviere, J.L., vol 10, 1983, p 151-156

Louviere discloses choice behavior experiments to measure user reaction to various treatments for a set of multiattribute alternative or choice sets (i.e. treatment combinations drawn from a factorial array, that is a functional or combinational rule "systematic rule"), including, collecting data pertaining to the users behavior for each treatment, identifying a desired outcome, e.g. simulate market behavior of direct interest, selection of subject groups or priori grouping of subject or posteriori grouping. Discusses the current statistical results for discrete choice models assume large sample requirements are not satisfied for large sample of individual each of whom faces an identical set of choice set treatments.

Video Browsing User Interface Designs: Effectiveness in Information seeking task, Tse, T. and Vegh, S.

Tse, et. al. discloses an experiment to measure to effectiveness of video browsing interface designs on different video information over the network seeking task, wherein each of the participants are presented with a set (4) of interface-task combinations, where user reaction to the interface "treatment" was measured. The experiment design determines a number of alternative interface-task treatments using various combinations of content from a set of content; a separate control group was not implemented all the interface-task combination/treatments were randomized among the participants. The software utilized to present the users with various treatments included a module to randomize the interface-task treatments so that different subject would receive each of the four experimental treatments in a random order (to control for learning effect), i.e. statistically sampling to specify a control group each comprising a user, from a plurality of control group, and collecting observation data relating to user behavior for each treatment.

Introduction to Attribute-Based Stated Choice Method, Adamowicz, W., Louviere, J., Swait, J., Jan. 1998

Adamowicz, et. al. discloses an experimentation methodology to identify elements of content, which may influence user behavior, e.g. likelihood to purchase, etc.) and design various treatments for a set of content elements by determining a number or alternative treatment using factorial combinations of the content elements from the set, allocate the treatments to user to test user behavior in response to the various treatments, and collecting data relating to the observed users relative to the various treatments and to analyze the collected data to derive a model or make inferences about some variables that influence user choices based on choice and ranking collected data generated from stated choice method (SCM) analyzed using Random Utility theory, however although the experiment hereby disclosed by can be administered via the Internet or other integrated network, like a dedicated cable channel, the experiment is

of survey design nature, mean that the experiment implementation involved a question-response scenario, by which user a presented with a set of questions and choice sets or multimedia to simulate experimentally designed environmental scenarios (sec 3.5.1)

6. Any comments Applicants considers necessary must be submitted no later than the payment of the Issue Fee and to avoid processing delays, should preferable accompany the Issue Fees. Such submission should be clearly labeled " Comments on Statement of Reasons for Allowance". In event of any post-allowance papers (e.g. IDS, 312 amendment, petition, etc.), Applicant is exhorted to mail papers to the Production Control branch in Publications or faxed to post-allowance papers correspondence branch at (703) 308-5864 to expedite issuing process or call PUB's Customer Service if any questions at (703) 305-8497.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Prieto whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Friday, from 6:30 to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Jack B. Harvey can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained fro the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

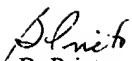
Box Issue Fee  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

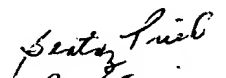
or faxed to:

(703) 746-4000, (Issue Fee and any Publication fee/payments)

Or:

(703) 305-8283 (for checking on receipt of payment w/Publication)

  
B. Prieto  
Patent Examiner  
January 24, 2005

  
Patent Examiner